

## **REMARKS**

### **Substitute Specification**

It was felt that the most expeditious way of correcting the numerous grammatical and idiomatic inaccuracies present in the specification as filed was the preparation of a Substitute Specification. It is believed that the Substitute Specification overcomes the Examiner's outstanding objections to the specification and the drawings. The Substitute Specification is attached hereto and is accompanied by a marked-up copy of the original specification which indicates the changes made thereto by the Substitute Specification. No "new matter" has been added to the original disclosure by the Substitute Specification. Entry of the Substitute Specification is respectfully requested.

### **Claim Objections**

The Examiner has objected to Claims 1, 4, 6, 7, and 9 as reciting indefinite elements or lacking antecedent basis. As noted above Applicant has canceled Claims 1-19 rendering these objections moot. Applicant notes that all of the Examiner's objections are addressed in any new claim corresponding to an objected claim.

### **Claim Rejections**

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawabata et al. (6,870,525) in view of Bourdelais et al. (2003/0214812). Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawabata et al. and Bourdelais et al. as applied to claim 1 and further in view of Lee et al. (6,857,759). Claim 7 is rejected under 35 U.S.C. 103(a) as being upatentable over Kawabata et al. and Bourdelais et al. as applied to claim 1 above, and further in view of Lee (6,902,300). Claims 8-11, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawabata et al. and Bourdelais et al. as applied to claim 1 above, and further in view of Parker et al. (6,752,505). Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kawabata et al. and Bourdelais et al. as applied to claim 1 above, and further in view of Itoh (6,491,411).

Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawabata et al. and Bourdelais et al. as applied to claim 1 above, and further in view of Blanchard (6,692,137). Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawabata et al. and Bourdelais et al. as applied to claim 1 above, and further in view of Takeuchi et al. (5,944,405).

### **Claim Amendments**

By this Amendment, Applicant has canceled claims 1-19, and added claims 20-38, to this application. It is believed that the new claims now specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

Applicant's new claims are directed towards a light distribution device for a backlight module having at least one light distribution device located on the reflector mask in the space between adjacent light sources. This light distribution device is constructed to both refract and diffuse light originating from the light sources towards the diffuser plate.

Kawabata et al. disclose a lighting unit 100 having light -emitting elements 2 between adjacent pairs of partitions 1 to form light emitting regions 4. The reference specifically teaches at Col. 6, ll. 50-51 that "[t]o increase optical efficiency, the partitions 1 are preferably reflective " and at Col. 7, ll. 7-10 that "[i]t should be noted that when the partitions 1 are provided between the light-emitting elements 2, a shadow may be cast on a region of the light emitting plane 100 over each of the partitions 1." It follows that the partition disclosed by Kawabata et al. is not refractive or diffusive, but is rather reflective.

Kawabata et al. does not teach or suggest a light distribution device for a backlight module having at least one light distribution device located on the reflector mask in the space between adjacent light sources, the light distribution device being constructed to refract and diffuse light originating from the light sources towards the diffuser plate.

Bourdelais et al. is cited as teaching multiple optical films. However, Bourdelais et al. do not teach or suggest a light distribution device for a backlight

module having at least one light distribution device located on the reflector mask in the space between adjacent light sources, the light distribution device being constructed to refract and diffuse light originating from the light sources towards the diffuser plate.

Lee is cited by the Examiner as teaching a dimming device with a hollow stick structure, as well as being cited as teaching screws for fastening a dimming device to a reflector. However, Lee does not teach or suggest a light distribution device for a backlight module having at least one light distribution device located on the reflector mask in the space between adjacent light sources, the light distribution device being constructed to refract and diffuse light originating from the light sources towards the diffuser plate.

Parker is cited by the Examiner as teaching light directing films treated with ink, matted, printed or having certain defined shapes. However, Parker does not teach or suggest a light distribution device for a backlight module having at least one light distribution device located on the reflector mask in the space between adjacent light sources, the light distribution device being constructed to refract and diffuse light originating from the light sources towards the diffuser plate.

Itoh is cited by the Examiner as teaching the advantages of a white reflective surface. However, Itoh does not teach or suggest a light distribution device for a backlight module having at least one light distribution device located on the reflector mask in the space between adjacent light sources, the light distribution device being constructed to refract and diffuse light originating from the light sources towards the diffuser plate.

Takeuchi et al. is cited by the Examiner as teaching a light diffusing sheet made from PC, PMMA or PET, as well as being cited as teaching white or matte reflecting layers. However, Takeuchi et al. does not teach or suggest a light distribution device for a backlight module having at least one light distribution device located on the reflector mask in the space between adjacent light sources, the light distribution device being constructed to refract and diffuse light originating from the light sources towards the diffuser plate.

Even if the teachings of Kawabata et al., Bourdelais et al., Lee et al., Lee, Parker et al., Itoh, Blanchard and Takeuchi et al. were combined, as suggested by

the Examiner, the resultant combination does not suggest: a light distribution device for a backlight module having at least one light distribution device located on the reflector mask in the space between adjacent light sources, the light distribution device being constructed to refract and diffuse light originating from the light sources towards the diffuser plate.

It is a basic principle of U.S. patent law that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of Applicant's disclosure to create a hypothetical combination which allegedly renders a claim obvious, unless there is some direction in the selected prior art patents to combine the selected teachings in a manner so as to negate the patentability of the claimed subject matter. This principle was enunciated over 40 years ago by the Court of Customs and Patent Appeals in In re Rothermel and Waddell, 125 USPQ 328 (CCPA 1960) wherein the court stated, at page 331:

The examiner and the board in rejecting the appealed claims did so by what appears to us to be a piecemeal reconstruction of the prior art patents in the light of appellants' disclosure. ... It is easy now to attribute to this prior art the knowledge which was first made available by appellants and then to assume that it would have been obvious to one having the ordinary skill in the art to make these suggested reconstructions. While such a reconstruction of the art may be an alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes.

The same conclusion was later reached by the Court of Appeals for the Federal Circuit in Orthopedic Equipment Company Inc. v. United States, 217 USPQ 193 (Fed.Cir. 1983). In that decision, the court stated, at page 199:

As has been previously explained, the available art shows each of the elements of the claims in suit. Armed with this information, would it then be non-obvious to this person of ordinary skill in the art to

coordinate these elements in the same manner as the claims in suit? The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking this evaluation. It is wrong to use the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when resolving the question of non-obviousness in a court of law.

In In re Geiger, 2 USPQ2d, 1276 (Fed.Cir. 1987) the court stated, at page 1278:

We agree with appellant that the PTO has failed to establish a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.

Applicant submits that there is not the slightest suggestion in either Kawabata et al., Bourdelais et al., Lee et al., Lee, Parker et al., Itoh, Blanchard or Takeuchi et al. that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Neither Kawabata et al., Bourdelais et al., Lee et al., Lee, Parker et al., Itoh, Blanchard or Takeuchi et al. disclose, or suggest a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's amended claims.

Application No. 10/791,737

**Summary**

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

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